IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.534 OF 2006

Shantaram Punjaji Aaher .. Petitioner

Versus

Vasantdada Sahakari Sakhar

Karkhana Ltd. .. Respondent

Mr.Kishore Patil i/b. Mr.P.N.Joshi for petitioner

Mr.N.N.Bhadrashete for respondent No.1

Mr.C.R.Sonawane A.G.P. for State.

CORAM : S.C.DHARMADHIKARI, J

DATE : 20th March 2007.

P.C.

. By this petition under Article 227 of the

Constitution of India, the petitioner has challenged the legality and validity of the order dated 9th November 2005 in Revision Application No.552 of 2005.

2. Revision Application was heard afresh pursuant to directions of this Court issued in Writ Petition No.5561 of 2003. A copy of the order passed in the said writ petition is annexed as Annexure I. This Court after hearing both sides, by its order dated 13th November 2003, directed that petitioner's revision application be heard by the Revisional Authority on merits after giving due opportunity to petitioner as well as first respondent Karkhana. This Court had stayed the enquiry under section 88 of the Maharashtra Coop.Societies Act, 1960 till the disposal of the revision application.

3. Mr.Patil appearing for petitioner submits that the revision application has not been

decided in accordance with law so also the directions of this Court. He submits that it was specifically urged by the petitioner before the Revisional Authority that the petitioner has been exonerated in earlier enquiries of the charges that are framed vide charge sheet dated 4th May 2002 and 22nd May 2002. A Re-enquiry into the same charges is, therefore, impermissible in law. He submits that this contention, although, specifically urged has not been dealt with in the manner the same is required to be dealt with in law. The Revisional Authority has only deleted charge Nos.2 and 3 from the charge sheet dated 4th May 2002 and thus erred in law in partly allowing the revision application. The order discloses total non application of mind and even otherwise the same is vitiated by an apparent error calling for interference by this Court in its writ jurisdiction.

4. Mr.Bhadrashete appearing for respondent

No.1 Karkhana has supported the impugned order and has invited my attention to the charges that have been framed. He submits that once the petitioner was associated with Karkhana, he cannot urge that no responsibility be fixed as far as he is concerned, for the loss sustained on account of the acts of omission and commission of the petitioner.

5. Learned A.G.P. on the last occasion was specifically told to take instructions as to what steps, respondent Nos. 4 and 5 have taken pursuant to the order of the Revisional Authority dated 9th November 2005. A statement was recorded by me on 23rd February 2007 of the learned A.G.P. that he would take instructions and file appropriate affidavit.

6. The matter appeared on 9th March 2007 but none were present from the office of Commissioner of Sugar to instruct A.G.P. nor an affidavit was

filed in this Court clarifying the position.

7. The matter was adjourned till today, but Mr.Sonawane, A.G.P. states that no affidavit could be filed. However, Mr.S.V.Suram, Coop.Officer Grade II from the office of Regional Director, Sugar, Ahmednagar is present in Court with files to instruct him.

8. With the assistance of learned Counsel appearing for the parties, I have perused the petition and annexures thereto. I have also perused the charges which have been framed on 4th May 2002 and 22nd May 2002. In my view, it would not be proper to interfere with the impugned order and set aside all proceedings which are to be initiated in pursuance thereof as sought by the petitioner. More so, when I find that there is an agreement between parties that the charges which have been already tried/dealt with by earlier orders need not be reopened. The parties

have, therefore, confined the enquiry in pursuance of the revisional authority's order to charge Nos. 3, 4, 5, 11, 14 and 15 of the charge sheet dated 4th May 2002 and charge No.1 which has been set out in the order dated 22nd May 2002. These orders of the Enquiry officer have been maintained and upheld by the Revisional Authority in the impugned order dated 9th November 2005.

9. However, Mr.Patil states that the petitioner was aged 62 years at the time of the institution of the petition. More than a year and half has lapsed after the impugned order and even till today the petitioner has not received any notice to appear before any authority for enquiry. In such circumstances and considering the advanced age of the petitioner, he submits that the fresh enquiry be initiated within a fixed time frame so that the petitioner would not be required to wait indefinitely. To my mind,

the request made by Mr.Patil is reasonable and deserves to be accepted. Even Mr.Bhadrashete appearing for respondent No.1 did not oppose this request.

10. It need not be emphasised that the very purpose of initiating proceedings under section 83 and 88 of the M.C.S. Act would be defeated if the authorities in charge of initiating proceedings for fixing responsibility and recovering amounts from delinquents mentioned therein do not act promptly and conclude the proceedings expeditiously. Keeping such proceedings pending indefinitely would encourage charges of nepotism and discrimination so also favouritism on account of political affiliation and rivalry. In such circumstances, I am of the view that since, this Court has taken note of the submissions of the petitioner on earlier occasion, it would be appropriate to direct that that the concerned authorities who have to act in

pursuance of the revisional authority's order and are obliged to implement it, should take necessary steps within a period of three months from today. Needless to state that if no such steps are initiated, the Enquiry with regard to the above charges in pursuance of the Revisional authority's order dated 9th November, 200 would come to an end and, thereafter, it would not be open for the Respondents to initiate any proceedings under Section 83 and 88 of the Maharashtra Co-operative Societies Act, 1960.

11. Needless to further state that if steps are taken within the time stipulated above, the Authorities to then endeavour to dispose of the proceedings expeditiously. Needless to further state that since, revisional authority has upheld the order dated 4th May 2002 to the extent it frames for trial Charge No.1, it would be open for the authority who would be acting in pursuance of the revisional authority's order to

frame and try that charge as well. Petition disposed of. All concerned to act on an authenticated copy of this order.

(S.C.Dharmadhikari, J)